



THE MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003: *GUARANTEEING BENEFICIARY ACCESS TO LOCAL PHARMACIES*

Background:

Currently, the Medicare program does not cover outpatient prescription drugs. As a result, America's seniors and individuals with disabilities struggle to acquire these life-saving medications. However, this will no longer be the status quo. Recently signed into law by President George W. Bush, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) provides prescription drug coverage to over 40 million Medicare beneficiaries for the first time in the program's history.

How Will the New Law Promote Access to Local Pharmacies?

- ***Increases volume-*** The new law guarantees access to affordable prescription drugs for Medicare beneficiaries, particularly for those who currently lack prescription drug coverage. This is expected to increase drug utilization and drug volume sold, as well as potentially boost the sales of non-drug products.
- ***Welcomes any willing provider-*** Medicare prescription drug plans must accept the participation of pharmacies willing to agree to the terms and conditions of the plan. Thirty-three states have already adopted "any willing provider" laws. The new law will not pre-empt these state laws.
- ***Calls for expansive, convenient access-*** The new law requires prescription drug plans to meet the same access standards required for plans covering our military men and women under the TRICARE program as follows:
 - 90% of urban enrollees must live within 2 miles of a retail pharmacy.
 - 90% of suburban enrollees must live within 5 miles of a retail pharmacy.
 - 70% of rural enrollees must live within 15 miles of a retail pharmacy.To meet these requirements, prescription drug plans will need broad participation from pharmacies, enabling beneficiaries to access pharmacies close to their home.
- ***Prohibits mail-order only rules-*** The new law prohibits mail-order only rules. Plans must allow beneficiaries to fill their prescriptions at a local pharmacy. Furthermore, the law calls upon the Federal Trade Commission (FTC) to conduct an impartial study of pharmacy benefit managers (PBMs) using their own mail-order programs and potential conflicts of interest. The FTC must report to Congress any problems discovered and propose legislative solutions.
- ***Eliminates government interference in pricing decisions-*** The law specifies that the government "may not interfere with the negotiations between drug manufacturers and pharmacies and PDP sponsors" and "may not require a particular formulary or institute a price structure" in order to protect beneficiaries and encourage privately negotiated prescription drug discounts. The evolution of the Medicare and Medicaid programs illustrates that payment rates are best negotiated between private sector entities, not the government. For example, health care

providers, including pharmacists, frequently complain that Medicare and Medicaid reimbursement rates do not adequately reflect the cost of providing care.

- ***Demands pricing transparency***- All discounts, rebates, and charge backs must be disclosed to the Secretary. Proprietary information will be confidential. This will ensure that rebates and discounts are passed down to seniors, pharmacies, and the Medicare program. Moreover, the new law gives the Secretary authority to audit Medicare drug plans, protecting against fraud and abuse.
- ***Prevents insurance risk***- The new law does not permit plans to require pharmacies to accept insurance risk.
- ***Encourages use of generic pharmaceuticals***- The new law speeds access to safe, effective, low-cost generic drugs. First and foremost, this provides Medicare beneficiaries with access to affordable prescription drugs and saves money for the Medicare program. In addition, this should help retail pharmacies, as they typically receive greater margins on generic drugs.
- ***Enhances the beneficiary-pharmacist relationship***- Medicare prescription drug plans will be required to establish medication therapy management programs for beneficiaries with multiple chronic conditions and catastrophic drug costs. The plans will reimburse pharmacists for counseling services such as reviewing a beneficiary's medications for potential drug-to-drug interactions and discussing the appropriate way to take medications.